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Name (Print/Type) Margherita M. Badalamenti

Signature

Date

April 8, 2004

Attorney's Docket No. 104362-1

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)
LASALLE R. SWENSON ET AL.)
Serial No. 10/675,890) Examiner: Not yet assigned
Filed: September 30, 2003) Art Unit: 1743
Descriptive Method for Determining a)
a Surface Property of a Solid)

**PETITION TO ESTABLISH PRIOR RECEIPT IN THE P.T.O. OF ITEM(S)
CONSIDERED AS NOT RECEIVED BY THE P.T.O.**

RESPONSE TO NOTICE OF INCOMPLETE APPLICATION

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

This is in response to the Notice of Incomplete Nonprovisional Application mailed for this application on March 17, 2004. A copy of the Notice of Incomplete Nonprovisional Application is enclosed.

Applicants assert that the items indicated as omitted, the drawings, were in fact deposited with the P.T.O. with the original application papers filed on September 30, 2003. In accordance with the requirements of the Notice of March 17, 2004, (see MPEP § 601.01(d), 7th Edition) applicants hereby (1) petition under 37 CFR 1.53(e) for a review of the determination that the items in issue were not deposited with the application; (2) submit the petition fee under 37 section 1.17(i) and (3) submit the attached evidence of the deposit of the items in issue. Authorization is hereby made to charge the amount of \$130.00 to Credit card as shown on the attached credit card information authorization form PTO-

04/14/2004 WABDELR1 00000060 10675690
130.00 OP
01 FC:1460

2038. Charge any additional fees required by this paper or credit any overpayment in the manner authorized above. A duplicate of this paper is attached. It is respectfully requested that, upon grant of the petition under 37 CFR 1.53(e), the petition fee be refunded by a credit to the charge authorized above.

In connection with the Notice of Incomplete Nonprovisional Application dated March 17, 2004, applicants submit a photocopy of the date-stamped return post card receipt showing thereon that 12 sheets of formal drawing were in fact deposited on September 30, 2003 (See MPEP, § 503, 7th Edition). As a convenience to the Office, a second set of the 12 sheets of formal drawings are provided herewith.

In light of the evidence, applicants respectfully request that their petition be granted and that the present application be accorded a filing date of September 30, 2003.

Respectfully submitted,



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MM/mmb

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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 130)

Complete if Known

| | |
|----------------------|---------------------------|
| Application Number | 10/675,890 |
| Filing Date | September 30, 2003 |
| First Named Inventor | LaSalle R. Swenson et al. |
| Examiner Name | Not yet assigned |
| Art Unit | 1743 |
| Attorney Docket No. | 104362-1 |

METHOD OF PAYMENT (check all that apply)

Check Credit card Money Order Other None

 Deposit Account:

| | |
|------------------------|--|
| Deposit Account Number | |
| Deposit Account Name | |

The Director is authorized to: (check all that apply)

Charge fee(s) indicated below Credit any overpayments
 Charge any additional fee(s) or any underpayment of fee(s)
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

| Large Entity | Small Entity | Fee Code (\$) | Fee Code (\$) | Fee Description | Fee Paid |
|---------------------|--------------|---------------|---------------|------------------------|----------|
| 1001 770 | 2001 385 | | | Utility filing fee | |
| 1002 340 | 2002 170 | | | Design filing fee | |
| 1003 530 | 2003 265 | | | Plant filing fee | |
| 1004 770 | 2004 385 | | | Reissue filing fee | |
| 1005 160 | 2005 80 | | | Provisional filing fee | |
| SUBTOTAL (1) | | (\$ 0) | | | |

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

| Total Claims | Independent Claims | Multiple Dependent | Extra Claims | Fee from below | Fee Paid |
|--------------|--------------------|--------------------|--------------|----------------|----------|
| | | | -20** = | X \$18 = | |
| | | | -3** = | X \$86 = | |
| | | | | | |

| Large Entity | Small Entity | Fee Description |
|---------------------|--------------|--|
| 1202 18 | 2202 9 | Claims in excess of 20 |
| 1201 86 | 2201 43 | Independent claims in excess of 3 |
| 1203 290 | 2203 145 | Multiple dependent claim, if not paid |
| 1204 86 | 2204 43 | ** Reissue independent claims over original patent |
| 1205 18 | 2205 9 | ** Reissue claims in excess of 20 and over original patent |
| SUBTOTAL (2) | | (\$ 0) |

**or number previously paid, if greater; For Reissues, see above

3. ADDITIONAL FEES

Large Entity Small Entity

| Fee Code (\$) | Fee Code (\$) | Fee Description | Fee Paid |
|---------------------|---------------|--|----------|
| 1051 130 | 2051 65 | Surcharge - late filing fee or oath | |
| 1052 50 | 2052 25 | Surcharge - late provisional filing fee or cover sheet | |
| 1053 130 | 1053 130 | Non-English specification | |
| 1812 2,520 | 1812 2,520 | For filing a request for ex parte reexamination | |
| 1804 920* | 1804 920* | Requesting publication of SIR prior to Examiner action | |
| 1805 1,840* | 1805 1,840* | Requesting publication of SIR after Examiner action | |
| 1251 110 | 2251 55 | Extension for reply within first month | |
| 1252 420 | 2252 210 | Extension for reply within second month | |
| 1253 950 | 2253 475 | Extension for reply within third month | |
| 1254 1,480 | 2254 740 | Extension for reply within fourth month | |
| 1255 2,010 | 2255 1,005 | Extension for reply within fifth month | |
| 1401 330 | 2401 165 | Notice of Appeal | |
| 1402 330 | 2402 165 | Filing a brief in support of an appeal | |
| 1403 290 | 2403 145 | Request for oral hearing | |
| 1451 1,510 | 1451 1,510 | Petition to institute a public use proceeding | |
| 1452 110 | 2452 55 | Petition to revive - unavoidable | |
| 1453 1,330 | 2453 665 | Petition to revive - unintentional | |
| 1501 1,330 | 2501 665 | Utility issue fee (or reissue) | |
| 1502 480 | 2502 240 | Design issue fee | |
| 1503 640 | 2503 320 | Plant issue fee | |
| 1460 130 | 1460 130 | Petitions to the Commissioner | |
| 1807 50 | 1807 50 | Processing fee under 37 CFR 1.17(q) | |
| 1806 180 | 1806 180 | Submission of Information Disclosure Stmt | |
| 8021 40 | 8021 40 | Recording each patent assignment per property (times number of properties) | |
| 1809 770 | 2809 385 | Filing a submission after final rejection (37 CFR 1.129(a)) | |
| 1810 770 | 2810 385 | For each additional invention to be examined (37 CFR 1.129(b)) | |
| 1801 770 | 2801 385 | Request for Continued Examination (RCE) | |
| 1802 900 | 1802 900 | Request for expedited examination of a design application | |
| Other fee (specify) | | 1814 Statutory disclaimer (\$110) | |

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 130.00)

SUBMITTED BY

(Complete if applicable)

| | | | | | | |
|-------------------|---------------------|-----------------------------------|--------|-----------|--------------|--------|
| Name (Print/Type) | Maryann Maas | Registration No. (Attorney/Agent) | 38,954 | Telephone | 847-391-2137 | |
| Signature | <i>Maryann Maas</i> | | | | Date | 4/8/04 |

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.